

Monday, March 10, 2014

Dear Patrick, Steve and Carmen:

I hope all is well with each of you. Much time has passed and nothing has changed as it relates to this situation at Malibu High. Teachers and students are in school and it is still filthy dirty. We still have no idea what toxins they are being exposed to on a daily basis. The district has spent approximately \$600,000 with very little accomplished:

– Nov. 2013: 10 classrooms were tested with 5 violating TSCA

– Dec. 2013: Testing was done with windows open in direct violation of the EPA, rendering test results meaningless.

– Cleaning

- Cleaning standards have not changed and Best Practices have not been discussed with the custodians
- HEPA Vacuums have not been purchased despite many letters requesting this to be done.
- Custodians do not dust the classrooms
- Soil has not been tested for toxins and contaminants
- Classrooms have not been tested for other toxins in the air, dust or vapor

Last Thursday, at the school board meeting a \$120,000 P.O. from Pillsbury Law was approved for 2.5 months of work. This law firm was hired to protect the district, yet there are no lawsuits. Environ's contact was approved last Thursday but has not addressed the task force nor the public.

I am asking for answers to the questions below. These questions were sent on January 9, 2014 to you. Some of the original January 9th questions have been answered and I thank you for that, but those below have not.

I am asking for response to these questions in writing this week. I will contact you by Friday if I do not hear from you before. I thank you in advance.

Please reply in writing on another page referencing the question numbers:

1. **Sent by Patrick on Feb 26th, 2014** " Regarding the putative interactive impacts of multiple toxic chemicals when conducting risk analysis. EPA's national cleanup programs do account for multiple toxins when conducting site-specific risk assessments for facilities, sites or in communities."

If this is the case, then why hasn't the EPA looked for other classroom toxins before giving a risk assessment for MHS. PCBs were not our only toxin found on campus with no explanation of source. We do not live in a vacuum and PCBs are our only risk.

2. **Steve Armann said at the Dec 12th, 2013** meeting in Malibu: paraphrased: My kids go to school in a place that looks a lot like Malibu and was probably built around the same

time and when I walk by the window there is a bead of caulk about an inch thick, much thicker than the ones at Malibu and I am not worried about my child.

- a. Has the caulk in Steve's son's school been tested for PCBs?
- b. Did that caulk trigger TSCA regulation?
- c. Should an EPA employee make such broad generalization that have no scientific basis?

The EPA's risk assessment and information should be based on scientific standards. Making this statement gave people the impression that PCBs are nothing to worry about since the EPA manager is not worried about his own son being exposed to caulk, regardless if it has PCBs. If this is not the case, I would need a public retraction.

3. Patrick stated in Feb 26th, 2014 email: "Fundamentally, there are four interactive toxicological mechanisms which govern the manner in which multiple chemicals can exert their impact on the health of human receptors: additive, antagonistic, potentiated & synergistic. EPA has developed a formal science policy in our risk assessment paradigms, which governs the manner in which the Agency assesses the risk & hazard from multiple chemicals or toxins. "

If the EPA is not doing any future testing for other toxins inside the classroom then how could you be scientifically accurate in your risk assessment? PCBs do not exist in a vacuum with no other toxins. This caveat should be stated in all correspondences concerning Malibu; that this risk assessment is for PCBs made by the EPA has not taken into account any other toxins since there has not been testing for other toxins. Remember you are talking to the layman and that fact that you are saying that everything is "safe" without comprehensive testing is scientifically irresponsible. They deserve the whole truth with those caveats to explain the narrowness of a PCB only assessment.

4. EPA statements made, please explain:

- 1) Patrick told me from day 1: reliable, reproducible "good" testing in, reliable, reproducible "good" results out. First, these are not EPA tests. Second, Mark Katchen was told to test with the windows closed and ignored the EPA and tested with the windows open. Yet the EPA still commented on these UNRELIABLE tests done in complete disregard of the EPA, making the public think the school is safe rather than choosing not to comment on tests that were not yours and done in complete disregard of EPA requirements. (things like this make it look like the EPA is protecting the district rather than the US citizens)
- 2) children are more sensitive than adults and we err on the side of precaution (how does .2ug.m3 at over a 1 in 100,000 err on the side of precaution?)
- 3) Carman Santos said on Nov 5th, 2013, "wipe evaluation criteria is too high at 10ug/100cm². EPA regulations were issued in late 90's and because of 9-11, EPA toxicologist came to new thinking about wipes. Why are we allowing any detection in wipes to be acceptable for our children?
- 4) Amy Hensley at EPA said, " Encapsulation is a short term plan only with a plan to remove PCBs at the next break, like spring or summer" With no encapsulation, no Best Practice Cleaning in place, the EPA said the kids and teachers could return to rooms that have not been reliably tested and are in violation of TSCA and this has not been encapsulated or removed. Why risk it? And if you are going to stand by this, then

stand by your recommendations and enforce them to ensure the kids are safe.

- 5) Patrick stated on Nov 13 at 3pm: "Congress decided on a 1 in 1 million acceptable risk" so why would we use anything less? Remember, you said children are the most sensitive, err on the side of precaution.
- 6) Past testing did not take into account that some of the rooms tested have been redone, new paint, fire remediation, floors redone and doors replaced (Mark Katchen said some rooms tested do not have caulk, they have a rubbery material) Yet they were all tested and treated the same and when you are analyzing the rooms, you did not take this into consideration, please do this in the future.
- 7) Patrick: 11-14-13, "can't let cancer risk go down to 1 in 10,000 because risk for other issues (non cancerous health concerns) come into play
 - a) Did congress set the range of 1 in 1 million to 1 in 10,000?
 - b) Does the EPA have to use this range?
 - c) CHHSL guidelines set for California, do you follow these?
 - d) Patrick stated: for schools, EPA defaults to residential standards, so why are we not using .0043ug?
- 8) Nov 20th: Patrick said, "test must be defensible, reproducible and the EPA never makes a decision based on a 1 time sampling event. Please explain why you said this and then told our district that the rooms are safe when it was based on 1 sampling event?"

5. In regards to PCBs and TSCA, please explain the following:

- 1) Looking at the law, I don't see where there is a congressional mandate for EPA's risk range with regard to PCBs. (ie: 1 in 1 million to 1 in 10,000)
- 2) As I understand it, for PCBs there is no congressionally mandated risk range, because Congress basically decided in TSCA (Toxic Substances Control Act) that no levels of PCBs are acceptable.
- 3) EPA's regulations provide that provision of TSCA doesn't apply if there is less than 50 ppm in a product. (not sure how EPA can justify this, but it seems to be accepted as part of the regulatory system).
- 4) The problem seems to be that the law does not give the EPA authority to require schools (or anyone) to test existing products to see if they contain over 50 ppm PCBs. (But rather than encouraging schools to do so anyway, they actually discourage them and say it is a more efficient way to protect public health to only test the air, and only take action if it is above certain levels... or if caulk is visibly deteriorating. It seems that EPA has recently chosen to exercise its enforcement discretion to direct schools to remove or mitigate caulk with PCBs only if air tests are above a certain range, yet they could direct schools to remove any PCBs over 50ppm.
- 5) It is a sort of "don't ask don't tell" regarding caulk that might contain over 50 ppm even if the air tests don't exceed their standards and there is no visible deterioration. Whether or not this is good public policy – i.e. to direct the

resources of school districts to the really significant problems -- I am not sure, but I don't think they are legally required to use any specific risk level for PCBs. So why use the range to 1 in 10,000?

- 6) Any item with over 50 ppm PCBs is illegal, period. Using only air testing to determine whether the law on PCBs should be enforced presents various problems, such as how accurate are the air tests, and how accurate are the risk ranges they are using, what is the temperature, is the ventilation system on or off, etc? Also, the risk ranges don't take into account other exposure routes besides inhalation, such as touching or ingesting materials with PCBs. Heavier PCBs (and some more toxic ones) do not easily go in the air, they rest in the dust on surfaces and kids are exposed through touch, so how are you accounting for those exposures?
- 7) Also PCBs have been found to be endocrine disruptors, and EPA does not yet have any safety standards for those, which can have effects at orders of magnitude of lower concentrations than the cancer and non-cancer effects EPA is looking at.
- 8) The PCBs in the soil which was tested for in 2010, most likely cannot be explained by migration from the caulk, especially since it was found over 8 feet away and 4 feet underground, so the caulk is one source but likely not the only one for PCBs on campus. And none of this PCB talk explains the lack of testing for toxins other than PCBs that were also found in the soil that could have vapor intrusion in the classrooms.
- 9) Asbestos regulation supports the assumption that if 1 classroom's building materials have asbestos then classrooms with similar building materials can be assumed, without testing, to also contain asbestos... this can be used for PCBs as well.

6. Please explain this in layman terms: There is no congressionally mandated "acceptable risk " number for any toxic chemical. And in fact, in a lawsuit by NRDC against EPA, the court ruled in favor of EPA that there was no congressional mandated risk level and moreover, that EPA has complete discretion to set any applicable risk thresholds. If this is the case, err on the side of extreme caution; you have America's children at risk!

7. Please explain in detail what Frequent Best Practices Cleaning means in regard to vacuuming with HEPA vacuums and wiping dust away with wet rags. Exactly how often do you mean?

8. Does Best Practices guarantee no exposure to occupants in the room? (yes or no)

9. In NYC the EPA did caulk sampling in June 2010 (a report that Patrick sent me). Caulk was found to exceed TSCA in places you have not yet required Malibu to test and I want to ensure you add this to the plan due March 30th.

- sink caulk
- toilet caulk
- metal door caulk
- wooden door caulk
- frame caulk
- penetration caulk

- caulk above fire extinguisher
- window glaze
- wall panel caulk
- In addition, PCBs have been found in masonry sealant, additive to concrete, caulking grout, paints, permanently elastic sealants, flame retardant coating of acoustic ceiling tiles...
<http://www.birmingham.ac.uk/Documents/college-les/gees/conferences/nercpops/POPsConference1Hazrati.pdf>

10. Why was .2ug/m3 (200ng) decided at a limit to then test for sources when air is not the only factor of exposure?

In addition, when I first contacted Region 9, I called to get evaluation criteria for air, wipes and bulk. My many conversations never revealed this .2ug/m3. This makes me conclude this to be more of an arbitrary number that has not been properly vetted and tested to ensure safety for our children. In Oct 2013 I looked for documentation on the EPA website in each region and the only PCB information referred to a school scale of 80-450ng that I have spoken to Patrick about in the past. Now there is information on the website referring to air testing to see whether further testing is necessary, which I believe was not there in Oct. Please verify and explain this to me.

11. What is the .2ug/m3 (200ng) equated to risk factor if .0043 (4.3ng) (a 1 in 1 million) residential risk is the base? (ie: 1 in 70,000?)

12. How can .2ug/m3 (200ng) ensure safe levels with the most toxic of Aroclors like 1254 or congeners of the Who12?

- a) What would the risk factor be for those highest risk PCBs (who12)?
- b) What would the risk factor of using .2ug/m3 (200ng) be for Aroclor 1254?

14. If we were using a base of 1 in 1 million risk of .0043ug/m3 (4.3ng), then it has been calculated for MHS with the amount of days and hours our teachers and students are on our Malibu campus to be .0202 ug/m3 (20.2 ng) which would make many of our rooms air tests above the threshold for further testing knowing that there is a source of some kind. It should be your mission to find this source and ensure that further contamination does not happen.

How can you guarantee no contamination in MHS's future if you never look for the source?

Again thank you for your time and commitment to our school and ensuring that all children at all schools are safe beyond any doubt.

Sincerely,

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